

BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	
FOR BENEFICIAL WATER USE PERMIT)	ORDER OF DISMISSAL
NO. 70209-s42M BY JAMES B. AND)	
KIMBERLY FINLEY)	

* * * * *

Pursuant to §§ 85-2-121 and 85-2-309, MCA, a hearing was held in the above matter on Tuesday, November 28, 1989, at 9:00 a.m., in Glendive, Montana, to determine whether the above application should be granted to James B. and Kimberly Finley (hereinafter the "Applicant") under criteria in § 85-2-311(1), MCA.

Applicant, James B. Finley, did not appear.

Applicant, Kimberly Finley, did not appear.

Marvin Howe, attorney at law, was present to observe only and was not retained by the Applicant to represent them in this matter.

Dewey J. Music, Manager, and Wayne Heimbuch, President of District One, both represented the Objector, Buffalo Rapids Irrigation District.

Roy Jones, Field Manager of the Glasgow Water Rights Bureau Field Office, Department of Natural Resources and Conservation, appeared at the hearing.

Tim Kuehn, Water Rights Specialist in the Billings Water Rights Bureau Field Office, Department of Natural Resources and Conservation, appeared at the hearing.

ADMINISTRATIVE RULE


The Applicant was duly noticed of this hearing by return receipt mail on October 25, 1989. Rule 36.12.208, Administrative Rules of Montana, states in pertinent part as follows:

Default occurs when a party fails to appear at a hearing. . . . Upon default, the defaulting party's claim or interest in the proceeding may be dismissed (with or without prejudice). . . .

ORDER

Application for Beneficial Water Use Permit No. 702090-s42M is hereby denied without prejudice in accordance with ARM 36.12.208.

Dated this 15th day of December, 1989.


Keith Kerbel, Hearing Examiner
Department of Natural Resources
and Conservation
1537 Avenue D, Suite 105
Billings, Montana 59102
(406) 444-6605

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Order of Dismissal was duly served upon all parties of record, at their address or addresses this 15th day of December, 1989, as follows:

James B. Finley and
Kimberly Finley
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Irene V. LaBare
Legal Secretary